



# **THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

August 25, 1961

Honorable D. C. Greer  
State Highway Engineer  
Texas Highway Department  
Austin 14, Texas

Opinion No. WW-1122

Re: Proper method of acquisition by the Highway Department of parcels of land for highway purposes when such land was heretofore by tax sale conveyed to the State upon foreclosure of tax liens held by the State, City of Houston and Houston Independent School District and related questions.

Dear Sir:

You have made request of this office for an opinion relating to the transfer and conveyance of lots located in the City of Houston to the State Highway Department for right of way in connection with Interstate Highway Loop 610. This land was purchased heretofore at tax sales by the State of Texas.

Your letter states that one of these tracts, designated for acquisition purposes as Parcel No. 441, was acquired by the State of Texas under a sheriff's deed dated April 5, 1927, pursuant to foreclosure of a tax lien against such property for delinquent State taxes by a District Court judgment entered on August 13, 1926.

The second tract, designated as Parcel No. 456, was acquired by the State of Texas under a sheriff's deed dated March 24, 1955, pursuant to a District Court judgment entered on September 7, 1954, foreclosing tax liens against such property for delinquent State, City of Houston and Houston Independent School District taxes in a tax suit brought by the State.

In your letter expressing the Highway Department's desire to acquire this property for highway purposes, you have requested an answer to the following questions:

"(1) Is it lawful for the County Judge and County Commissioners, acting as the Commissioners' Court of Harris

County, to execute a transfer of jurisdiction to the State Highway Department on said Parcel 441?

"(2) Is it lawful and proper to include the court costs as part of the consideration to be paid by the Highway Department for such transfer of jurisdiction of Parcel 441, or should the consideration be limited to the amount of delinquent taxes reduced to judgment?

"(3) Is it lawful and proper for the Commissioners' Court of Harris County to transfer jurisdiction to the State Highway Department of the State's undivided interest in Parcel 456 and also make a conveyance to the Highway Department of the undivided interest in said property now owned by the City of Houston and the Houston Independent School District?

"(4) If your answer to above question (2) is in the negative, then is it lawful for that portion of the court costs assessed against the City and School District to be included as a part of the consideration for the conveyance of the City and School District's interest in Parcel 456?"

In answering these questions, reference should be made to Article 7345b, Sec. 9, Vernon's Civil Statutes, and particularly the following provisions thereof:

"Section 9. If the property be sold to any taxing unit which is a party to the judgment under decree of the court in said suit, the title to said property shall be bid in and held by the taxing unit purchasing the same for the use and benefit of itself and all other taxing units which are parties to the suit and which have been adjudged in said suit to have tax liens against such property, pro rata and in proportion to the amount of the tax liens in favor of said respective taxing units as established by the judg-

ment in said suit, and costs and expenses shall not be payable until sale by such taxing unit so purchasing same. The taxing unit may sell and convey said property so purchased by it, or which has heretofore been purchased in the name of any officer thereof, at any time in any manner determined to be most advantageous to said taxing unit or units either at public or private sale, . . . but such property shall not be sold by the taxing unit purchasing the same, at private sale, for less than the adjudged value thereof, if any, as established in the tax judgment, or the total amount for which such judgment was rendered against the property in said suit, whichever is lower, . . . . If the State of Texas is the taxing unit which purchased said property at the tax foreclosure sale, the Commissioners Court of the county in which the property is located shall have authority to act for the State of Texas in making private sales and conveyances of said property, as herein provided, . . . ."

Considering your questions 1 and 3 together, it is the opinion of this office that the above statute would authorize the Commissioners Court of Harris County to transfer and convey Parcels Nos. 441 and 456 to the Highway Department for interstate highway purposes, including the interest in such parcels held by the City of Houston and Houston Independent School District.

For the proper form of conveyance for transferring the State's interest in the above parcels to the Highway Department, it would be proper, in view of Article 6674w-3, Sec. 2, Vernon's Civil Statutes, for the Commissioners Court to execute a transfer of use and jurisdiction of subject property to the Highway Department.

By virtue of the provisions of Sec. 9 of Article 7345b, the tracts can only be sold at private sale for not "less than the adjudged value thereof, if any, . . . or the total amount for which such judgment was rendered against the property . . .", whichever is lower. Tax judgments are rendered for the taxes and costs of court. Your second and fourth questions are answered in the affirmative.


Honorable D. C. Greer, page 4 (WW-1122)

S U M M A R Y

The Commissioners Court of Harris County is authorized to execute a transfer of use and jurisdiction of the State's interest and a conveyance of the interest held by the City of Houston and Houston Independent School District in Parcels Nos. 441 and 456, and the consideration for such transfer and conveyance would be any amount, not less than the adjudged value thereof, if any, or the amount of the judgment in the tax suit, whichever is lower.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
Thomas Burrus  
Assistant

TB:ljb

APPROVED:

OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL  
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